



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 3, 2004

Ms. Myrna S. Reingold  
Galveston County Legal Department  
123 Rosenberg, Suite 4127  
Galveston, Texas 77550-1454

OR2004-3591

Dear Ms. Reingold:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 200796.

The Galveston County Sheriff's Department (the "department") received a request for all offense reports from the three Clear Creek Independent School District secondary campuses from August 1, 2003 through the present. You indicate that the department does not seek to withhold a portion of the responsive information. You claim, however, that portions of the remaining information are excepted from disclosure under sections 552.101, 552.108, 552.130, 552.135, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We begin by noting that you have identified a portion of the submitted documents as information that the department will generally release to the requestor. However, you have highlighted certain information within these documents that you seek to withhold. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information made confidential by other statutes. The set of documents you intend to release include several ST-3 accident report forms that appear to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (Texas Peace Officer's Accident Report Form ST-3). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date

of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. Transp. Code § 550.065(c)(4). Under this provision, the Department of Public Safety or another governmental body is required to release a copy of an accident report to a person who provides the governmental body with two or more pieces of information specified by the statute. *Id.* In the present request, the requestor has not provided the required two out of three pieces of information. Thus, the department must withhold the submitted ST-3 accident reports under section 552.101 in conjunction with section 550.065(b) of the Transportation Code.

Next, section 552.130 of the Government Code provides in pertinent part:

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. You have highlighted Texas motor vehicle driver's license and registration information contained in the set of documents you intend to release. We agree that the department must withhold the highlighted Texas motor vehicle driver's license and registration information from this set of documents pursuant to section 552.130 of the Government Code.

You have also highlighted account number information contained in the set of documents the department intends to release. You contend that the highlighted account number information is excepted under section 552.136 of the Government Code, which provides in relevant part:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. We agree that the department must withhold the highlighted account number information pursuant to section 552.136 of the Government Code.

We next turn to your claimed exceptions for the remaining submitted information. The remainder of the submitted information consists of offense reports that the department seeks to withhold from disclosure. You contend that a portion of this information is confidential under section 58.007 of the Family Code. Section 58.007(c) provides in pertinent part as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). Upon review, we find that the portion of the submitted information that you seek to withhold pursuant to section 58.007 involves alleged juvenile criminal conduct, delinquent conduct, or conduct indicating a need for supervision that occurred after September 1, 1997. This information, which we have marked, is within the scope of section 58.007. *See* Fam. Code § 51.03(a), (b) (defining “delinquent conduct,” “conduct indicating a need for supervision”). It does not appear that any of the exceptions in section 58.007 are applicable. Accordingly, we determine that this information is confidential pursuant to section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code.<sup>1</sup>

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<sup>1</sup> Based on this finding, we need not reach your other arguments against disclosure of this information.

You next claim that the remaining submitted offense reports are excepted from disclosure under section 552.108 of the Government Code.<sup>2</sup> Section 552.108(a) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. See Gov't Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We understand you to represent that the remaining submitted offense reports relate to pending criminal investigations or prosecutions. Based on your representations and our review, we determine that the release of the remaining offense reports would interfere with the detection, investigation, or prosecution of crime. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, we agree that section 552.108(a)(1) is generally applicable to this information.

We note, however, that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle*, 531 S.W.2d 177. See Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold the remainder of the information at issue pursuant to section 552.108(a)(1).<sup>3</sup>

With respect to basic information, you inquire whether the identities of certain complainants in the offense reports at issue are excepted from disclosure under section 552.135 of the Government Code. Basic information that is not excepted under section 552.108 includes the identification and description of a complainant. See *Houston Chronicle*, 531 S.W.2d 177; Open Records Decision No. 127 (1976). We understand you to represent that information identifying a complainant who is an informer within the meaning of

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<sup>2</sup> We note that, while you have indicated on the front of offense report number 30083366 that you will release the report, you have also indicated that you seek to withhold a portion of this offense report under section 552.108(a)(1). The following discussion of section 552.108 shall apply to offense report 30083366, to the extent you seek to withhold that report from disclosure under section 552.108.

<sup>3</sup> We note that you have redacted driver's license numbers from the information in the remaining reports that you indicate will be released as basic information. Because driver's license numbers are not included in the types of information considered to be basic information, we find that the department may withhold the driver's license numbers at issue under section 552.108(a)(1). See *Houston Chronicle*, 531 S.W.2d 177; Open Records Decision No. 127 (1976). Based on this finding, we do not reach your claim under section 552.130 with respect to basic information from these offense reports.

section 552.135 is excepted under that section and therefore cannot be released as basic information. Section 552.135 of the Government Code provides:

(a) "Informer" means a student or former student or an employee or former employee of a school district who has furnished a report of another person's or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student's or former student's name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or

(3) if the informer planned, initiated, or participated in the possible violation.

(d) Information excepted under Subsection (b) may be made available to a law enforcement agency or prosecutor for official purposes of the agency or prosecutor upon proper request made in compliance with applicable law and procedure.

(e) This section does not infringe on or impair the confidentiality of information considered to be confidential by law, whether it be constitutional, statutory, or by judicial decision, including information excepted from the requirements of Section 552.021.

Gov't Code § 552.135. Section 552.135 was enacted by the Seventy-sixth Legislature for the purpose of enforcing compliance by school districts with the Public Information Act. *See* Act of May 30, 1999, 76<sup>th</sup> Leg., R.S., ch. 1335, § 6, 1999 Tex. Sess. Law Serv. 4543, 4545 (codified at Gov't Code § 552.135). It is clear from the legislative history of the exception that section 552.135 applies only to information held by a school district or a proper regulatory enforcement authority. *See* House Comm. on Public Education, Bill Analysis, H.B. 211, 76<sup>th</sup> Leg. (1999) (noting that enacting legislation provides appellate remedy for school districts and open-enrollment charter schools that disagree with attorney general decisions with respect to public information, along with new exception to disclosure for

identity of school district informer). Moreover, section 552.135(d), in providing for disclosure of information to a law enforcement agency, indicates that the exception applies to information that is not already in the hands of a law enforcement agency. *See* Gov't Code § 552.135(d); *see also* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express and cannot be implied), 478 at 2 (1987) (language of confidentiality statute controls scope of protection). The offense reports at issue here are held by the department. We therefore determine that section 552.135 is not applicable to any of the information in the offense reports at issue. Accordingly, the department may not withhold any of the basic information at issue pursuant to section 552.135 of the Government Code.

In summary, within the set of information you have marked for release, the department must withhold the marked ST-3 accident reports pursuant to section 552.101 of the Government Code in conjunction with 550.065 of the Transportation Code, and the highlighted information pursuant to sections 552.130 and 552.136 of the Government Code. With respect to the remaining information at issue, we have marked the portion of the submitted information that the department must withhold under section 552.101 in conjunction with section 58.007 of the Family Code. The remaining offense reports at issue are excepted from disclosure under section 552.108(a)(1) of the Government Code, with the exception that basic information from the remaining offense reports must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body

fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



David R. Saldivar  
Assistant Attorney General  
Open Records Division

DRS/seg

Ref: ID# 200796

Enc: Submitted documents

c: Mr. Ted Streuli  
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(w/o enclosures)